

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1180 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE R.P.DHOLAKIA

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1-Yes

2 to 5 - No

TECHNICAL STAFF ASSOCIATION

Versus

STATE OF GUJARAT

Appearance:

MR GIRISH PATEL for Petitioners
GOVERNMENT PLEADER for Respondent No. 1
MR KS NANAVATI for Respondent No. 2

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 29/01/98

ORAL JUDGEMENT (Per; C.K.Thakker,J.)

This petition is filed by the petitioner Association (Petitioner No.1) and its General Secretary (Petitioner No.2) for an appropriate writ, order or direction quashing and setting aside orders and

resolutions by which revised pay scales granted in favour of the petitioners were sought to be withdrawn and restraining the respondents from effecting recovery and preventing them from imposing condition that the revised pay scales would be granted to them only if the members of the petitioner Association will give an assurance and undertaking that they would repay and refund the amount which they have obtained.

.RS 2

#. It appears that when this petition was filed, another petition was pending in which an action taken by the State Government of withdrawing the benefits was challenged and it was subject matter of Special Civil Application No.4255 of 1984. That petition was admitted, Rule was issued and interim relief was also granted. In view of that interim relief, benefits were continued to be extended in favour of the petitioners. When the present petition came to be filed, it was admitted and was ordered to be heard alongwith Special Civil Application No.4255 of 1984. Somehow or the other, this petition was not placed alongwith that petition and Special Civil Application No.4255 of 1984 came to be disposed of finally. The petition was allowed and action taken by the Government of withdrawing the benefits was held to be illegal and set aside. It is not disputed by and between the parties that said decision stands. Neither the State Government nor the Corporation has filed any appeal against said order.

#. The contention of Mr.Patel, learned counsel for the petitioners was that when action of the Government was held to be illegal by this Court and the judgment stands, it is not open to the Corporation now to ask the petitioners that they would be paid revised pay scales only if they would not claim benefits under the Government Resolution made in Special Civil Application No.4255 of 1984 and would refund the amount recovered under that Resolution.

#. At the same time, however, he stated that when the benbefits were granted to the employees by the respondent Corporation and the order passed by the Government was quashed and set aside, the respondent Corporation will have to consider the prayer of the petitioners and to decide the same in accordance with law.

#. In the facts and circumstances of the case, in our opinion, ends of justice would be met if the petitioner Association and/or its Office bearers are

granted liberty to apply to the respondent Corporation regarding the prayer made in the present petition and by directing the respondent Corporation to consider the same in the light of facts and circumstances including the fact that during the intervening period, Special Civil Application No.4255 of 1984 was allowed and the action of the Government was quashed by this Court. The respondent Corporation will treat this petition alongwith Annexures and Civil Application as memorandum of representation. It is open to the petitioner Association to produce other evidence and/or material if it thinks fit. The Corporation will decide the same in accordance with law in light of observations made hereinabove as also the judgment in Special Civil Application No.4255 of 1984. If the petitioner Association is aggrieved by an outcome of such a representation and decision thereon, it is open to them to take appropriate proceedings in accordance with law.

#. In view of the aforesaid observations and directions, learned counsel for the petitioner seeks permission to withdraw this petition. Permission is granted. Rule is discharged. No order as to costs. Liberty to apply in case of difficulty. It is expected that the respondent Corporation will decide the representation as expeditiously as possible preferably within three months from the receipt of the writ.

Sd/-

(C.K.Thakker,J.)

Sd/-

29-01-1998 (R.P.Dholakia,J.)

radhan